

**THE HON'BLE SRI JUSTICE N.V. RAMANA**

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**W.P. No. 13251 of 2006**

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**Oral order:**

Assailing the action of the 1<sup>st</sup> respondent, namely the Managing Director, Andhra Bank Farmer's Co-operative Society Ltd., in not implementing the decision of the 2<sup>nd</sup> respondent, namely the Managing Committee, Andhra Bank Farmer's Co-operative Society Ltd., the petitioner filed this writ petition.

The petitioner while working as Senior Field Officer in Andhra Bank Farmer's Co-operative Society Ltd. (hereinafter referred to as 'the society'), was terminated from service vide orders dated 09.09.2005 of the 1<sup>st</sup> respondent. Aggrieved thereby, the petitioner preferred an appeal to the 3<sup>rd</sup> respondent, namely the District Co-operative Officer, on 09.11.2005. However, the 3<sup>rd</sup> respondent vide proceedings dated 16.11.2005, returned the appeal of the petitioner stating that as per the amended Bye-laws, the authority empowered to entertain the appeal is not he, but the 2<sup>nd</sup> respondent. The petitioner accordingly submitted appeal before the 2<sup>nd</sup> respondent, who in their extraordinary meeting held on 30.12.2005 unanimously resolved to reinstate the petitioner into service. However, the 1<sup>st</sup> respondent, who is the ex-officio Member of the 2<sup>nd</sup> respondent, refused to implement the same, stating that the appeal was not preferred in time. Thereafter, he addressed a letter to the 4<sup>th</sup> respondent, namely the Divisional Co-operative Officer, seeking clarification with regard to the period of limitation and the power of the 2<sup>nd</sup> respondent to entertain the appeal. It is the case of

the petitioner that despite the 4<sup>th</sup> respondent clarifying that 2<sup>nd</sup> respondent is the appellate authority, and the orders passed by the 2<sup>nd</sup> respondent on the appeal filed by the petitioner are valid and should be implement, yet the 1<sup>st</sup> respondent refused to implement the same. Hence, he filed the present writ petition.

The learned counsel for the petitioners submitted that the 1<sup>st</sup> respondent being the executive authority, is bound to implement the decision of the 2<sup>nd</sup> respondent and he can neither question the jurisdiction of nor the decision of the 2<sup>nd</sup> respondent.

The 1<sup>st</sup> respondent and the 4<sup>th</sup> respondent filed two separate counters.

The learned counsel appearing on behalf of the 1<sup>st</sup> respondent reiterating the counter averments submitted that the proposals for amendment of the Bye-laws have not been approved so far, and as per the old Bye-laws it is the 3<sup>rd</sup> respondent, who is empowered to entertain and decide the appeal, and inasmuch as the 2<sup>nd</sup> respondent has no jurisdiction to entertain the appeal, the orders passed by the 2<sup>nd</sup> respondent are a nullity. Therefore, no exception can be taken to the action of the 1<sup>st</sup> respondent in not implementing the decision of the 2<sup>nd</sup> respondent, which directed reinstatement of the petitioner into service.

The learned counsel appearing on behalf of the 4<sup>th</sup> respondent, reiterating the counter averments submitted that 4<sup>th</sup> respondent had vide letter 19.01.2006 had instructed the 1<sup>st</sup> respondent and the 2<sup>nd</sup> respondent to take appropriate action in the matter keeping in view the provisions of A.P. Co-operative Societies Act, 1964 and the Rules made thereunder and the Bye-laws of the

society. He submitted that since the employees of the Andhra Bank Farmer's Service Co-operative Society Ltd. are governed by the Special Bye-laws of the society, he cannot interfere with the service and disciplinary action matters.

Heard the learned counsel for the petitioner, the learned counsel for the 1<sup>st</sup> respondent and the learned counsel for the 4<sup>th</sup> respondent.

On the last occasion, when the matter came up, this Court directed the counsel for the 4<sup>th</sup> respondent to verify whether any amendment has been effected to the Bye-laws dated 26.02.1993. Today, the learned counsel for the 4<sup>th</sup> respondent on instructions submitted that the proposals for amendment of the Bye-laws have not been approved, and as on today, the old Bye-laws are in force.

Pointing to the provisions of the old Bye-laws, the learned counsel for the 4<sup>th</sup> respondent submitted that the power to entertain an appeal, against an order of dismissal passed against a Senior Field Officer, is vested in the 3<sup>rd</sup> respondent. Admittedly, the petitioner preferred appeal to the 3<sup>rd</sup> respondent, but the 3<sup>rd</sup> respondent on the premise that the Bye-laws were amended, and as per the amended Bye-laws, the power to entertain the appeal is vested in the 2<sup>nd</sup> respondent, returned the appeal to the petitioner. Even though, the Bye-laws were not amended, yet the 2<sup>nd</sup> respondent entertained the appeal filed by the petitioner and ordered his reinstatement into service, which the 1<sup>st</sup> respondent being the executive authority, refused to implement. Inasmuch as the 2<sup>nd</sup> respondent had no authority to entertain the appeal, the orders passed by him on the appeal of the petitioner, are without jurisdiction.

In the above view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The orders passed by the 2<sup>nd</sup> respondent on the appeal of the petitioner, which the 1<sup>st</sup> respondent refused to implement, are without jurisdiction, and are accordingly set aside. Since under the Bye-laws the 3<sup>rd</sup> respondent is the authority empowered to entertain and decide the appeal, the petitioner is at liberty to file fresh appeal against the order of removal before the 3<sup>rd</sup> respondent, within a period of one week from the date of receipt of a copy of this order, and on the appeal being filed, the 3<sup>rd</sup> respondent shall entertain the appeal, and consider and dispose of the same and pass appropriate orders thereon, in accordance with law, within a period of four weeks from the date of the appeal.

Accordingly, the writ petition is disposed of. No costs.

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**N.V. RAMANA, J.**

**Dated: 22<sup>nd</sup> December, 2006.**  
**KSR**